

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

UNITED STATES OF AMERICA)	
)	NO. 3:24-cr-00189
v.)	JUDGE CRENSHAW
)	
DAVID AARON BLOYED)	

MOTION TO EXCLUDE EXCERPT FROM *THE TURNER DIARIES*

The defendant, David Bloyed, asks the Court to exclude the Government’s proposed excerpt from the novel *The Turner Diaries* under Rule 403 of the Federal Rules of Evidence.

Background

On April 21, 2025, the Government filed a proposed exhibit list. (D.E. 58) Proposed Exhibit 28 is described as “*Turner Diaries* Excerpt – Day of the Rope.” (D.E. 58). The defense then filed its Motion to Exclude Testimony About the Day of the Rope and Excerpt from *The Turner Diaries*, arguing that Agent DeFeo’s testimony about *The Turner Diaries* was not admissible under Rule 701(c) of the Federal Rules of Evidence and that, without this testimony, there would be insufficient evidentiary foundation to admit an excerpt from the book. (D.E. 60) At the time of that filing, the Government had not yet provided defense counsel with the excerpt from *The Turner Diaries* that it seeks to introduce. The Government subsequently filed its Motion in Limine to Permit Evidence of Media Referred to in Defendant’s Threatening Communication. (D.E. 61) The relevant excerpt from the novel, Chapter XXIII, was

appended to that motion. (D.E. 61) The Government subsequently provided defense counsel with a copy of the entire novel in a new discovery production.

The Turner Diaries is a novel first published in 1978 by William Luther Pierce, who led a white supremacist, neo-Nazi organization called the National Alliance, under the pseudonym Andrew Macdonald. Jeffrey Toobin, *Homegrown: Timothy McVeigh and the Rise of Right-Wing Extremism* 20 (Simon & Schuster 2023). In the novel, the federal government and economy are controlled by a Jewish cabal known as the System. The protagonist, Earl Turner, leads a white supremacist group called the Organization, which ultimately overthrows the System and exterminates black people, Jews, and “race traitors.” Chapter XXIII depicts “the Day of the Rope,” in which the Organization carries out the mass lynching of its enemies.

The chapter the Government wants to read to the jury describes horrifying violence in the most shocking possible language. “[F]rom tens of thousands of lampposts, power poles, and trees throughout this vast metropolitan area, the grisly forms hang.” Each of the corpses has a sign around its neck saying, “I betrayed my race.” A 19-year-old girl is lynched while begging for her life. A federal judge is brutally beaten as the white supremacists force him to put on his judicial robes before he is hung. The conclusion of the chapter features the following language, “It’ll probably take three or four days to remove all the bodies – there are between 55 and 60 thousand of them – and in this hot weather it’ll be quite unpleasant toward the end.”

Law

Rule 403 provides that “[t]he court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.” The Advisory Committee notes provide that “[u]nfair prejudice” within its context means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.”

Argument

The Government’s proposed excerpt from *The Turner Diaries* is so graphically violent and morally repugnant that whatever probative value it has to Mr. Bloyed’s social media posts is substantially outweighed by the danger of unfair prejudice. *See* Fed. R. Evid. 403. Furthermore, reading this text into the record will waste time and needlessly present cumulative evidence.

The Government claims that, “[i]nsofar as there is any potential for undue prejudice generated by the reaction to the violent plot of the fictional book . . . such prejudice can be mitigated effectively through the use of a limiting instruction.” (D.E. 61, PageId #: 428) This claim is implausible. If the danger of unfair prejudice presented by the graphic, disgusting, extremely violent language the Government wants to read the jury can be mitigated effectively through the use of a limiting instruction, it is difficult to imagine any evidence that should ever be excluded under Rule 403.

The Government also writes as follows:

In addition to the use of a limiting instruction, the Court can further mitigate any unfair prejudice through simple measures, such as those identified by the Second Circuit in a case where relevant evidence also involved clips from a violent movie (*The Town*). See *Monsalvatge*, 850 F.3d at 493-97. To avoid the potential “strong emotional or inflammatory impact” in that context, the Second Circuit focused on two appropriate methods for selecting the limited clips: using short, narrowly tailored clips and depicting no actual violence in which someone got hurt on screen. *Id.* at 495. Here, like the clips shown in *Monsalvatge*, the Government has carefully selected only relevant clips portraying the character’s intent and attempts to blow up the school and kill the headmaster and limited the scenes to those in which no one got hurt. *Id.*

(D.E. 61, PageID #: 429) This section of the Government’s motion appears to be cut-and-pasted from a different filing in a different case. If the Government means to propose that only excerpts of Chapter XXIII be introduced at Mr. Bloyed’s trial, defense counsel reserves the right to address those specific excerpts in a subsequent filing.

Respectfully submitted,

/s/ Will Allensworth

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CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2025, I electronically filed the foregoing Motion to Exclude Excerpt from *The Turner Diaries* with the clerk of the court by using the CM/ECF system, which will send a notice of Electronic Filing to: Joshua Kurtzman and Philip Wehby, Assistant United States Attorneys, 719 Church Street, Suite 3300, Nashville, Tennessee 37203.

/s/ Will Allensworth

WILL ALLENSWORTH